

The Honorable James L. Robart

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

AL-PENYO BROOKS,

Defendant.

NO. CR20-193 JLR

PROTECTIVE ORDER

This matter, having come to the Court's attention on the government's motion for entry of a discovery protective order, and the Court, having considered the motion, and being fully advised in this matter, hereby enters the following PROTECTIVE ORDER:

1. Protected and Sensitive Material.

A. *Protected Material.* The following documents and materials are deemed Protected Material:

- i. Grand Jury transcripts and exhibits;
- ii. Witness statements, including but not limited to reports of law enforcement officers memorializing witness statements; and
- iii. The personal information related to victims and/or witnesses, and any statements and/or documents containing personal information related to any victims and/or witnesses. As used in this Order, the term "personal information" refers to

1 each victim and/or witnesses' date of birth, Social Security number (or other
2 identification information), driver's license number, address, telephone number, location
3 of residence or employment, school records, juvenile criminal records, and other
4 confidential information. In addition, with respect to any victims in this case, the term
5 "personal information" also includes the name and identity of each victim.

6 The United States will make available copies of the Protected Materials, including
7 those filed under seal, to defense counsel to comply with the government's discovery
8 obligations. Possession of copies of the Protected Materials is limited to the attorneys of
9 record, and investigators, paralegals, law clerks, experts and assistants for the attorneys of
10 record (hereinafter collectively referred to as "members of the defense team"):

11 The attorneys of record and members of the defense team may share and review
12 the Protected Material with the Defendant. The attorneys of record and members of the
13 defense team acknowledge that providing copies of the Protected Material to the
14 Defendant and other persons is prohibited, and agree not to duplicate or provide copies of
15 the Protected Material to the Defendant and other persons. The exception to this
16 prohibition is the dissemination of electronic copies to the Federal Detention Center at
17 SeaTac, Washington, for use in a controlled environment by Defendant, who is currently
18 in custody there. The United States Attorney's Office for the Western District of
19 Washington is prohibited from providing copies of the Protected Material to non-law
20 enforcement witnesses or potential witnesses.

21 *B. Sensitive Material.* The following documents and materials are
22 deemed Sensitive Material:

23 i. Medical records related to victims and/or witnesses; and
24 ii. Sexually suggestive photographs of victims and/or witnesses,
25 including but not limited to photographs connected to online advertisements for
26 prostitution.

27 Possession of Sensitive Material is limited to attorneys of record and members of
28 the defense team. The attorneys of record and members of the defense team may not

1 share or review the documents containing Sensitive Material, or any copies of any
2 documents containing Sensitive Material, in any manner with any other person, including
3 Defendant. This order, however, does not prohibit attorneys of record and members of
4 the defense team from discussing the contents of documents constituting Sensitive
5 Material with Defendant, as long as the attorneys of record and members of the defense
6 team do not share the documents or copies of the documents with Defendant or any other
7 person. The attorneys of record and members of the defense team shall keep any
8 documents containing Sensitive Material secured whenever the documents containing
9 Sensitive Material is not being used in furtherance of their work in the above captioned
10 case.

11 Additional discovery items may be deemed by the parties to constitute Protective
12 or Sensitive Material upon agreement.

13 Any violation of these prohibitions constitutes a violation of the Protective Order.
14 Further, the attorneys of record are required, prior to disseminating any copies of the
15 Protected or Sensitive Materials to members of the defense team, to provide a copy of
16 this Protective Order to members of the defense team, and obtain written consent by
17 members of the defense team of their acknowledgment to be bound by the terms and
18 conditions of this Protective Order. The written consent need not be disclosed or
19 produced to the United States unless requested by the Assistant United States Attorney
20 and ordered by the Court. Nothing in this order should be construed as imposing any
21 discovery obligations on the government that are different from those imposed by case
22 law and Rule 16 of the Federal Rules of Criminal Procedure.

23 **2. Filing**

24 Any Protected or Sensitive Material that is filed with the Court in connection with
25 pre-trial motions, trial, or other matter before this Court, shall be filed under seal and
26 shall remain sealed until otherwise ordered by this Court. This does not entitle either
27 party to seal their filings as a matter of course. The parties are required to comply in all
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1 respects to the relevant local and federal rules of criminal procedure pertaining to the
2 sealing of court documents.

3 **3. Nontermination**

4 The provisions of this Order shall not terminate at the conclusion of this
5 prosecution.

6 **4. Violation of Any Terms of this Order**

7 Any violation of any term or condition of this Order by the Defendant, his
8 attorney(s) of record, any member of the defense team, or any attorney for the United
9 States Attorney's Office for the Western District of Washington, may be held in contempt
10 of court, and/or may be subject to monetary or other sanctions as deemed appropriate by
11 this Court.

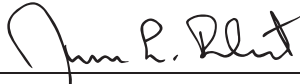
12 If the Defendant violates any term or condition of this Order, the United States
13 reserves its right to seek a sentencing enhancement for obstruction of justice, or to file
14 any criminal charges relating to the defendant's violation.

15 **5. Right to Review**

16 The parties agree that in the event that compliance with this Order makes it
17 difficult for defense counsel to adhere to their Sixth Amendment obligations, or
18 otherwise imposes an unworkable burden on counsel, defense counsel shall bring any
19 concerns about the terms of the Order to the attention of the government. The parties
20 shall then meet and confer with the intention of finding a mutually acceptable solution.
21 In the event that the parties cannot reach such a solution, defense counsel shall have the
22 right to bring any concerns about the scope or terms of the Order to the attention of the
23 Court.

1 The Clerk of the Court is directed to provide a filed copy of this Protective Order
2 to all counsel of record.

3 DATED this 19th day of January, 2020.
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7 THE HONORABLE JAMES L. ROBART
8 UNITED STATES DISTRICT JUDGE
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10 Presented by:

11 s/ Catherine L. Crisham

12 CATHERINE L. CRISHAM

13 Assistant United States Attorney
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